



Appeal Decision

Site visit made on 28 July 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2020

Appeal Ref: APP/E2530/W/20/3248783

**Land at Mussons Close, off Swinstead Road, Corby Glen, Lincolnshire
NG33 4NY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ms R Dawson against the decision of South Kesteven District Council.
 - The application Ref S19/1299, dated 1 July 2019, was refused by notice dated 11 September 2019.
 - The development proposed is erection of a single storey dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposal is in outline form with approval sought for details of access and layout. Matters relating to appearance, landscaping and scale are reserved for subsequent approval. The position of the dwelling and access point shown on the submitted site layout plan has therefore been material to my assessment of the proposal.
3. The Council's decision notice refers to policies within the Core Strategy (CS) and Site Allocation and Policies Development Plan Document (SAP DPD). These policies have been superseded following the adoption of the South Kesteven District Council Local Plan in January 2020 (LP). I have therefore assessed the proposal against the relevant policies of the LP as the up-to-date development plan.

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the area; and
 - the provision of open space.

Reasons

Character and appearance

5. Mussons Close is a residential cul-de-sac characterised by mainly two-storey detached dwellings some of which are set back from and arranged around a centrally located area of open grassed land. The appeal site sits within this

open land. The position and orientation of existing dwellings focussed around the grassed area is integral to the cohesive layout of Mussons Close and its attractive spacious qualities.

6. The single storey dwelling and its curtilage would be positioned significantly forward of those neighbouring two-storey dwellings that are generally aligned with each other and positioned set back from the position of the open grassed land. Consequently, it would appear as a piecemeal, stand-alone development at odds within the context of this part of Mussons Close and the distinctive layout and spacious characteristics which define it. The incongruity of the development would be exacerbated by its prominent location which would be particularly visible on entering Mussons Close from Swinstead Road and from existing properties which overlook the grassed area.
7. I conclude that the development would result in significant harm to the character and appearance of the area. In that regard, the development would conflict with Policy DE1 (Promoting Good Quality Design) of the LP which seeks to ensure high quality design and amongst other things requires that all proposals should reinforce local identity and not have an adverse effect on the streetscene, settlement pattern or the landscape / townscape character of the surrounding area. The development would also be contrary to the National Planning Policy Framework (the Framework) which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Open space

8. The Council contends that the grassed area that the appeal site forms part of land that was intended to be public open space as part of the design and layout of Mussons Close. However, this alone does not mean it the land constitutes open space to be assessed under Policy OS1 (Open Space) of the LP.
9. The evidence before me indicates that there are no formal management or maintenance arrangements for the land. Furthermore, no evidence has been provided to demonstrate that the land is protected as open space for sport and recreation purposes for example by way of a planning condition, legal agreement or within an adopted development plan. Given the site is in private ownership, rights of access to the land for use by members of the public for sport and recreation are uncertain. I also acknowledge there is a public right of way (PROW) through the land but there is nothing before me to demonstrate the land around the PROW also benefits from public access rights.
10. Consequently, without substantive evidence to persuade me otherwise, I am not persuaded that the land falls under the definitions of open space in the Framework or Policy OS1 nor therefore that it contributes towards the quality and quantity of open space in the area.
11. To conclude and taking the above factors into account, I have not identified conflict with the requirements of Policy OS1 of the LP or Paragraph 97 of the Framework.

Other Matters

12. The appellant suggests there are logistical issues for them to maintain the land. This is a private matter for them to address as landowner. There are powers

outside planning legislation to ensure land is adequately maintained and development of the site is not the only way in which future management of the land could be addressed.

13. The appellant suggests that the Council has not demonstrated any appetite to take on future maintenance of the remaining land outside the appeal site. I have seen nothing to suggest the Council is not open to discussions but there are clearly costs involved. Whilst the appellant has withdrawn their offer of a Unilateral Undertaking to transfer the land, this would not in any case have overcome the conflict with the development plan identified under the first main issue.
14. Third party written representations suggest that the open land that the site sits within is registered as an Asset of Community Value (ACV). The Council did not refer to the land being an ACV in their reasons for refusal and I have not been provided with any documentary evidence in this respect. In any case, given I have identified harm under the first main issue, it has not been necessary to investigate this matter any further.

Planning Balance and Conclusion

15. Paragraph 12 of the Framework confirms amongst other things that the development plan is the starting point for decision making and where a planning application conflicts with an up-to-date development plan permission should not usually be granted.
16. The Council has confirmed it can demonstrate a 5-year housing land supply and has a very recently adopted LP. A single dwelling would make a limited contribution towards the Council's housing requirements. I have not identified harm in terms of any conflict with the Council's open space policy, although this is of neutral consequence in the planning balance.
17. The development would result in significant harm to the character and appearance of the area and would conflict with the development plan and the Framework. This is a matter which attracts significant weight and tips the balance firmly against the proposal.
18. No further material considerations have been advanced of sufficient weight to justify a decision other than in accordance with the development plan. Therefore, for the reasons set out, I conclude that this appeal should be dismissed.

M Russell

INSPECTOR